
IOWA UTILITIES BOARD
General Counsel

Docket No.: RPU-2014-0001
Utility: Interstate Power and Light Company
File Date/Due Date: January 13, 2014/NA
Memo Date: February 17, 2014

TO: The Board

FROM: Gary Stump

SUBJECT: Interstate Power and Light Company
Application for Approval of Corporate Undertaking

I. Background

On January 13, 2014, Interstate Power and Light Company (IPL) filed with the Utilities Board (Board) a “Motion for Approval of Corporate Undertaking and Corporate Undertaking.” IPL said the filing was made in compliance with the Board’s January 31, 2013, order in Docket Nos. SPU-2005-0015 and TF-2012-0577, where IPL was directed to file a corporate undertaking by January 13, 2014, in the event IPL files a general rate case proceeding in the first quarter of 2014. IPL said that it is working with the parties to resolve issues related to the new purchase power agreement (PPA) with NextEra Energy Duane Arnold, LLC (NextEra), but that if those issues are not resolved IPL is committed to removing NextEra PPA capacity costs from base tariff rates in a general rate case for 2014, with a refund obligation that begins the same day as energy adjustment clause (EAC) cost recovery for the new NextEra PPA charges, which begins on February 22, 2014.

On January 27, 2014, the Large Energy Group (LEG) filed a resistance to IPL’s motion for approval of corporate undertaking. LEG said that the corporate undertaking was deficient because it does not commit IPL to refund any of the increase in rates associated with the costs that will be recovered by IPL through the EAC beginning February 22, 2014. LEG also argued that IPL should be required to provide prior written notice to affected customers of the increase in costs to be recovered through the EAC beginning on February 22, 2014. LEG filed an amendment to its resistance on January 29, 2014, in which it said it believes the increase in IPL’s EAC from the new NextEra PPA will be at least \$58 million annually.

On February 5, 2014, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to LEG’s resistance. Consumer Advocate acknowledged that IPL will only be required to refund any net over-recovery determined at the conclusion of the case, and that IPL’s corporate undertaking generally conforms to the guidance contained in the Board’s January 31, 2013, order. Consumer Advocate also said that the Board determined that the new DAEC PPA costs are appropriately

recovered through the EAC and that there is no notice requirement for recovery of such costs through IPL's existing EAC, citing Iowa Code § 476.6(8) and 199 IAC 20.9.

On February 7, 2014, IPL filed a response to LEG's resistance. IPL presented a history of the proceedings that resulted in the January 31, 2013, order in Docket Nos. SPU-2005-0015 and TF-2012-0577. IPL again asserted that its corporate undertaking is consistent with its commitments and that no notice is required.

On February 12, 2014, LEG replied to Consumer Advocate's response. LEG contended that, contrary to Consumer Advocate's assertions, customer notice is required because the increase in the EAC "is tantamount to an interim (temporary) rate increase," for which notice would be required.

On February 14, 2014, LEG replied to IPL's response. Among other things, LEG said that in paragraph 33 of IPL's reply, IPL disclosed privileged information about ongoing negotiations between the parties. LEG asked the Board to disregard this information.

II. Legal Standards

Iowa Code § 476.6(8) provides:

Automatic adjustments permitted. This chapter does not prohibit a public utility from making provision for the automatic adjustment of rates and charges for public utility service provided that a schedule showing the automatic adjustment of rates and charges is first filed with the board.

Rule 199 IAC 20.9 contains the Board's energy adjustment clause rules. There is nothing in the rules that requires notice to customers before a change in the amount flowing through the EAC.

Iowa Code § 476.10, which deals with temporary rates, states that such rates require "filing with the board a bond or other undertaking approved by the board conditioned upon the refund in a manner to be prescribed by the board of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules, or regulations finally approved by the board."

III. Analysis

Before addressing the two issues raised by LEG, the staff notes that it is not necessary to determine whether or not the information disclosed by IPL in paragraph 33 of its reply is privileged information related to ongoing negotiations between the parties. The information consisted of IPL's assertion that LEG had an opportunity to review the corporate undertaking before it was filed and had no objection. However, it is not

necessary to rely on this information, which has little or no relevance, in making a decision on the two issues raised by LEG.

First, staff recommends that the Board find no customer notice is required. The increase in EAC charges does not trigger a requirement for customer notice. Iowa Code § 476.6(8) and 199 IAC 20.9. While the Board might have the authority to order a special notice, it did not do so in its January 31, 2013, order approving EAC recovery for the new DAEC PPA and should not do so here. In the event IPL brings a rate case in the first quarter of 2014, the appropriate customer notice will be required at that time.

Second, staff recommends that the Board find that the corporate undertaking provided by IPL conforms to the guidelines set forth in the Board's January 31, 2013, order and is sufficient to secure any refund obligation. The corporate undertaking is merely a security document guaranteeing that the utility has to pay any refund obligation. IPL's corporate undertaking appropriately begins the refund obligation on February 22, 2014, and states that if its current rates exceed the revenue requirement established in the 2014 proceeding, it will refund the difference. That is how refund obligations have been traditionally measured.

Staff also recommends that the Board state that it views the corporate undertaking as securing any refund obligation. However, if the refund ultimately determined by the Board is higher than the corporate undertaking because of an error or other reason, that does not mean the utility would not owe the refund; it would only mean that the amount of its potential liability as stated on its financial statements would be incorrect.

IV. Recommendation

Sign the attached draft order approving IPL's corporate undertaking and denying LEG's objection to the corporate undertaking and request to require customer notice.

/gds